

1 STATES OF AMERICA upon the grounds set forth herein, and in support thereof,
2 states as follows:

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FACTUAL BACKGROUND

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5 1. The Plaintiffs own and operate a retail food store in Los Angeles,
6 California, named JUNG HWAN OH, a California Sole Proprietorship d/b/a
7 RANCHO MEAT MARKET (hereinafter “Rancho Meat Market”). The store is
8 dedicated to the retail sales of mostly staple food items to the Plaintiffs’ customers.

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10 2. Located in Los Angeles, California, Rancho Meat Market serves a
11 community with a high percentage of Supplemental Nutrition Assistance Program
12 (SNAP, formerly the “Food Stamp Program”) households.

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14 3. Accordingly, Rancho Meat Market began accepting Electronic Benefit
15 Transfers (or “EBT”) to better serve the local community and increase its
16 attractiveness to SNAP customers. These SNAP customers eventually became a
17 substantial share of the store’s total clientele, responsible for a substantial portion of
18 the store’s gross revenue on EBT alone. In addition to EBT, the SNAP clientele
19 account for an even larger portion of the gross revenue as they conduct significant
20 non-SNAP transactions as well for ineligible items.

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23 4. On April 2, 2024, the USDA, through the FNS, issued a Charge Letter
24 to the Plaintiffs wherein the Store was charged by the Defendant with the sale of
25 ineligible items on SNAP. The Defendant indicated that they were seeking a six-
26 month disqualification of the Plaintiffs from the program.

5. The Plaintiffs denied the allegations and presented a defense against a disqualification, but in a letter dated June 12, 2024 the Agency issued a six-month disqualification of the Plaintiffs.

6. Accordingly, on June 14, 2024, the Plaintiffs timely filed for an Administrative Review of the Department's decision to disqualify them for six months, as permitted by 7 C.F.R. §279, and presented arguments and evidence in support of their position. The Plaintiffs took issue not only with the evidence that any violations of SNAP retailer policies had occurred, but also with whether or not they were neglectful or careless in their operation of the store and oversight of the employees.

7. The Administrative Review Division of the USDA responded to the Plaintiffs' appeal in a letter and opinion dated September 23, 2024, which was received on September 25, 2024, a copy of which is attached hereto as **Exhibit “A”**.

8. This Judicial Appeal has been filed timely and seeks the reversal of the USDA's current decision to disqualify the Plaintiffs for six (6) months from participating as a SNAP retailer.

JURISDICTION AND VENUE

9. The Plaintiffs bring this action based upon their disqualification from eligibility to participate in the Supplemental Nutrition Assistance Program, as codified by Congress in 7 U.S.C. §§ 2011 – 2036(c).

10. This Court has subject matter jurisdiction over the matters raised by the

Plaintiffs in this case pursuant to 7 U.S.C. §2023, and 7 C.F.R. §279.7. Furthermore, 28 U.S.C. §1331 gives this Court original jurisdiction over civil actions arising under the laws of the United States, for which the aforementioned statute and regulation qualify.

11. Venue is appropriate in this District pursuant to 7 C.F.R. §279.7(a), 7 U.S.C. §2023(13) and 28 U.S.C. §1391(b) as this Plaintiffs' business is owned and operated in Los Angeles, Los Angeles County, California and because the facts giving rise to the circumstances herein occurred in the Central District of California.

PARTIES

12. The Plaintiff, JUNG HWAN OH, a California Sole Proprietorship d/b/a RANCHO MEAT MARKET, operates at 2421 Maple Ave., Los Angeles, CA 90011-1409. JUNG HWAN OH, a California Sole Proprietorship d/b/a RANCHO MEAT MARKET is referred to herein as “Rancho Meat Market” and referred to herein collectively with the other Plaintiffs as “Plaintiffs”.

13. The Plaintiff, JUNG HWAN OH, an Individual, is a natural person and resident of California and is a registered owner of Rancho Meat Market and is referred to herein collectively with the other Plaintiffs as "Plaintiffs".

14. The Defendant, the UNITED STATES OF AMERICA, acting through its agency, the United States Department of Agriculture (hereinafter referred to as the “USDA” or “Department”), and its subservice, the Food and Nutrition Service (hereinafter referred to as “FNS”).

GENERAL ALLEGATIONS

15. The Supplemental Nutrition Assistance Program (SNAP) is a government program operated pursuant to Title 7 United States Code, Chapter 51, and codified more specifically as 7 U.S.C. §§2011-2036(c).

16. The general purpose of SNAP is to provide food benefits (formerly “food stamps”) to program participants who meet certain financial need requirements. SNAP participants are awarded benefits (money) issued on a state-by-state basis in varying amounts based upon the needs of their household. These benefits are transmitted to, and utilized by the participant, through an Electronic Benefits Transfer (EBT) card, which conceptually functions similar to a debit card.

17. The benefits are to be used by the participant only for the purchase of food and other eligible items sold by approved SNAP retailers, such as Rancho Meat Market

SNAP VIOLATION REGULATIONS AND POLICIES

18. SNAP retailers are governed by the Defendant through 7 C.F.R. §278.6 which sets out the guidelines for disqualification or suspension of retailers who violate SNAP regulations, and to some degree defines what those violations are. In pertinent part, and relied upon by the Defendant in issuing the suspension in this case, is §278.6(5) and (6):

“[The Department may] disqualify the firm for 6 months if it is to be the first sanction for the firm and the evidence shows that personnel of the firm have committed violations such as but not

1 limited to the sale of common nonfood items *due to carelessness*
2 or poor supervision by the firm's ownership or management.” 7
3 U.S.C. §278.6(5) (2009) (emphasis added).

4 19. The regulation clearly draws a line between violations that are a result
5 of an employee’s malicious or incidental mistakes that occur despite reasonable
6 efforts and oversight from ownership/management, and those which occur as the
7 result of the poor handling of the company and its employees by the
8 management/ownership. Effectively, the regulation seeks only to sanction those
9 stores where the ownership/management has created an environment to permit
10 violations to fester or occur uninhibited.

11 20. In this instant action, the Defendant has alleged that the Plaintiffs
12 committed transactions which amount to the selling of ineligible common non-food
13 items (also referred to as “minor ineligible items”) in EBT transactions. Such
14 allegations were based upon unsworn statements of an unidentified investigator.

15 21. In all, the Charge Letter claims that the Plaintiff allegedly sold different
16 ineligible items¹ to the Investigator who is a *third party* contractor for the Food and
17 Nutrition Service, United States Department of Agriculture: (1) two boxes of
18 Goodsense ZipperSeal Freezer Storage Bags; (2) a box of Best Yet Heavy Duty
19 Cutlery Combo; (3) two packs of Axxion The Big Bowl Bowls; (4) one pack of
20 Axxion soak-proof foam plates; (5) two boxes of Handi-Wrap Zipper Seal Sandwich

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28 ¹ Albeit on different occasions.

Zipper Bags; (6)

22. Notably, neither the Charge Letter (which instituted the Agency action) nor the proceedings before the Administrative Review Office, offered any evidence or allegation that the store's ownership or management was careless or neglectful in their supervision and operation of the store, nor was evidence provided showing such shortcomings in the oversight of the employees.

23. The store, in fact, did oversee its employees and provide SNAP training. At no time was the store owner or manager neglectful or careless in the operation of the store.

24. As such, the determination that neglect or carelessness on the part of the management/ownership existed was without evidence of support, and ultimately based on either insufficient information or arbitrary standards.

ISSUANCE OF HARSH CIVIL MONEY PENALTIES

25. With respect to the issuance of Civil Money Penalties in lieu of suspensions, 7 U.S.C. §278.6 permits the Department to issue a hardship civil money penalty. As noted by the District of Oregon in the case *Plaid Pantry Stores, Inc. vs. U.S.*, 612 F.Supp. 680, 684 (D. Oregon 1985) in drafting the Food Stamp Act and the statutes upon which the Defendant now operates and under which this case arises, “Congress believed that civil money penalties should be the normal penalty instead of disqualification.”

26. Nevertheless, it appears that the Agency did not evaluate that option in

1 this matter, nor did it consider a warning letter as provided under 7 C.F.R.
2 §278.6(e)(7) where the violations were too limited to warrant further agency action.
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4 **COUNT I: REQUEST FOR JUDICIAL REVIEW**

5 27. The Plaintiffs incorporate and restate each and every paragraph set forth
6 above as though fully set forth herein.
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8 28. The Plaintiffs, pursuant to 7 U.S.C. §2023 and 7 C.F.R. §279.7 have the
9 right to, and hereby do, request a *trial de novo* judicial review of the six (6) month
10 suspension issued by the Defendant against the Plaintiffs.
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12 29. The initial administrative decision, in addition to the Final Agency
13 Decision rendered upon the Administrative Appeal, errantly found that the Plaintiffs
14 had committed SNAP regulation violations as a result of accepting SNAP benefits in
15 exchange for “common ineligible non-food items.”
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17 30. The store denies that the transactions occurred as described by the
18 Agency.
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20 31. Furthermore, the Final Agency Decision wrongly determined that the
21 store’s ownership and/or management was careless or neglectful in its operation of
22 the firm and oversight of the clerks.
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24 32. The Plaintiffs’ management and ownership has been diligent in
25 operating the store and overseeing employees.
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27 33. Even if the transactions had occurred as described by the Defendant,
28 they were in no way the result of ownership of managerial carelessness or neglect.
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1 The store is thorough and careful in its training, but cannot be omniscient or
2 omnipresent for every transaction.
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4 34. Both the finding of a sale of ineligible items, and that such sale was the
5 result of managerial or ownership neglect or carelessness, were errant and warrant
6 reversal.
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8 35. Furthermore, the Plaintiffs have never been afforded an opportunity to
9 cross-examine the third-party investigator, nor have they been permitted the
10 opportunity to review the Administrative Record and respond to the allegations and
11 evidence set forth therein.
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13 36. As such, the Defendant, acting through its department and sub-
14 departments in the USDA, improperly and impermissibly suspended the Plaintiff
15 from participation in SNAP for six (6) months.
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17 37. Therefore, the six (6) month disqualification against the Plaintiffs
18 should be set aside by this Court in favor of the issuance of a warning letter, and the
19 Plaintiffs' status as an approved SNAP retailer should be reinstated.
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21 **WHEREFORE**, the Plaintiffs, JUNG HWAN OH, a California Sole
22 Proprietorship d/b/a RANCHO MEAT MARKET and JUNG HWAN OH, an
23 Individual, respectfully request this Honorable Court conduct a Judicial Review of
24 the Defendant's six (6) month disqualification of the Plaintiffs, and subsequently
25 enter Judgment against the Defendant for improperly disqualifying the Plaintiffs for
26 six (6) months, as well as awarding the Plaintiffs the attorney's fees and costs
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1 incurred in this action.

2 **COUNT II: ARBITRARY AND CAPRICIOUS SANCTION**

3 38. The Plaintiffs hereby incorporate and restate paragraphs 1 through 24
4 above as though more fully set forth herein.

5 39. The Defendant has issued a series of internal policies which in pertinent
6 part are designed to outline the system of punishments and sanctions for violations
7 of the SNAP program by authorized retailers.

8 40. The policies themselves draw arbitrary lines between numbers of
9 ineligible items and transactions which fail to take into consideration the volume of
10 visits done by an investigator or a confidential informant.

11 41. In any case, the Defendant lacked substantial evidence to indicate that
12 the alleged violations arose to the level of carelessness and/or poor supervision on
13 the part of the Plaintiffs which would indicate a failure at the managerial level to
14 supervise employees as required under the applicable regulations to support a six (6)
15 month disqualification.

16 42. As such, the transactions qualify as inadvertent in nature, and given the
17 other evidence in the administrative record, the Defendant's internal policies required
18 a warning letter to be issued rather than a suspension.

19 **WHEREFORE**, the Plaintiffs, JUNG HWAN OH, a California Sole
20 Proprietorship d/b/a RANCHO MEAT MARKET and JUNG HWAN OH, an
21 Individual, respectfully request this Court set aside the Defendant's suspension of the
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1 Plaintiffs from participating in the SNAP program, as well as awarding the Plaintiffs
2 attorney's fees and costs incurred in this action.
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4 **COUNT III: IN THE ALTERNATIVE, JUDICIAL REVIEW OF DENIAL OF CIVIL MONEY
PENALTY**

5 43. The Plaintiffs hereby incorporate and restate paragraphs 1 through 24
6 above as if more fully set forth herein.

7 44. The Plaintiffs timely requested the Department to issue a Hardship Civil
8 Money Penalty in lieu of a six (6) month disqualification as the impact on the local
9 community would be significant in the absence of Rancho Meat Market's ability to
10 accept EBT.

11 45. The Defendant subsequently denied the request, leaving the matter for
12 Judicial Review pursuant to 7 U.S.C. §2023.

13 46. Review of the Defendant's decision to issue (or decline) a civil money
14 penalty is subject to *de novo* judicial review so that the Court has the opportunity to
15 independently evaluate the evidence. *See Affum v. U.S.*, 566 F.3d 1150, 1160 (D.C.
16 Cir. 2009).

17 47. As such, the Plaintiffs request this Court review their request for the
18 issuance of a hardship civil money penalty as permitted by law, and to issue said
19 penalty if it is found to be appropriate in lieu of any sanction resulting from the
20 Court's decision in Count I of this Complaint.

21 **WHEREFORE**, the Plaintiffs, JUNG HWAN OH, a California Sole
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Proprietorship d/b/a RANCHO MEAT MARKET and JUNG HWAN OH, an individual, respectfully request this Honorable Court enter Judgment reversing the Defendant's decision not to issue a hardship civil money penalty, and instead instruct the Defendant to issue such penalty in the event a suspension is upheld under Count I, as well as awarding the Plaintiffs attorney's fees and costs incurred in this action.

This matter has been respectfully submitted to the Court by the undersigned attorneys and shall be served upon the Defendant in the manner prescribed by the Federal Rules of Civil Procedure, 7 C.F.R. §279 and 7 U.S.C. §2023, as will be evidenced by the proof of service filed with the Court hereafter.

/s/ Mubarak Malik
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² Application for Pro Hac Vice to be filed promptly.

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